

be designated as head of the terrorist travel program and outlines specific duties to be carried out by the head of the program. Those duties include: developing strategies and policies for the Department to combat terrorist travel; reviewing the effectiveness of existing programs to combat terrorist travel across DHS; making budget recommendations that will improve DHS's ability to combat terrorist travel; and ensuring effective coordination among DHS agencies with missions related to intercepting and apprehending terrorists. This section also designates the head of the program as the point of contact for DHS with the National Counterterrorism Center and requires that the Secretary submit a report to Congress on the implementation of the section.

The Conference substitute adopts the Senate provision.

Section 723. Enhanced driver's license

There is no comparable House provision.

Section 504 of the Senate bill would require the Secretary to enter into a memorandum of agreement with at least one State to pilot the use of enhanced driver's licenses that would be valid for a U.S. citizen's admission into the United States from Canada and require a report to Congress on the pilot.

The Conference substitute adopts the Senate provision, as modified to permit a pilot of U.S. citizens entering the country from either Canada or Mexico.

Section 724. Western Hemisphere Travel Initiative

There is no comparable House provision.

Section 505 of the Senate bill would require the Secretary to complete a cost-benefit analysis of the Western Hemisphere Travel Initiative (WHTI) and a study of ways to reduce the fees associated with passport cards prior to publishing a final rule for WHTI.

The Conference substitute adopts the Senate provision, as modified to specify that the Secretary of State shall develop proposals for reducing passport card fees, including through mobile application teams who could accept applications for the passport card in communities particularly affected by WHTI. The Conference believes that the cost/benefit analysis should include the cost to the State Department and resources required to meet the increased volume of passport requests.

Section 725. Model ports-of-entry

There is no comparable House provision.

Section 506 of the Senate bill would require the Secretary to establish a model ports of entry program aimed at improving security and streamlining the current arrival process for incoming travelers at the 20 busiest international airports in the United States. It requires the Department to hire at least 200 additional Customs and Border Protection officers to address staff shortages at these airports, and it would also require measures that would ensure a more efficient international arrival process.

The Conference substitute adopts the Senate provision, as modified.

Section 731. Report regarding border security.

There is no comparable House provision.

Section 1604 of the Senate bill directs the Secretary to report to Congress regarding ongoing DHS initiatives to improve security along the U.S. northern border. The section also requires the Comptroller General to report to Congress with a review and comments on that report and recommendations regarding any necessary additional actions to protect that border.

The Conference substitute adopts the Senate provision, as modified.

TITLE VIII—PRIVACY AND CIVIL LIBERTIES

Section 801. Modification of Authorities Relating to privacy and civil liberties oversight board

Sections 802, 803, 804, 805, and 806(a) of the House bill amend Section 1061 of the Intel-

ligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458) by modifying the structure and operations of the Privacy and Civil Liberties Oversight Board (the Board). This section removes the Board from the Executive Office of the President and makes the Board an independent agency. It also requires each of the Board's five members to be confirmed by the U.S. Senate. The House language also provides the Board with subpoena powers that will be enforced by the U.S. District Court in the judicial district where the subpoenaed person resides. The Board is required to submit not less than two reports each year to the appropriate Committees of Congress that shall include a description of the Board's activities, information on its findings, conclusions, minority views, and recommendations resulting from its advice and oversight functions.

Section 601 of the Senate bill is a comparable provision; however, it strengthens the Board's authority without removing it from the Executive Office of the President. Additionally, the Senate provision also grants subpoena power to the Board; however, it differs from the House provision in that the subpoena must be issued by the Attorney General who shall either issue the subpoena as requested or provide the Board with an explanation if the subpoena request is modified or denied. If the request is modified or denied, Congress shall be notified of this action within thirty days.

The Conference substitute adopts the House provision regarding the removal of the Board from the Executive Office of the President and adopts the Senate provision regarding the Board's subpoena power. All other comparable provisions were integrated.

Section 802. Department Privacy Officer

Section 812 of the House bill adopts the language contained in the Privacy Officer with Enhanced Rights Act of 2007, as introduced. In particular, this section expands the Department of Homeland Security's (the Department or DHS) Chief Privacy Officer's (CPO) access to any and all material available to the Department that fall under the CPO's purview. The CPO is also given authority to administer oaths and issue subpoenas to facilitate investigations and reporting requirements. The CPO's term of office would last for a period of 5 years and the individual appointed would be required to submit reports to Congress, without any prior comment by the Secretary, Deputy Secretary or any other officer of the Department, regarding the performance and responsibilities of the Privacy Officer.

Section 603 of the Senate bill is a comparable provision, except that it does not include the 5-year term of office as mandated by the House provision, and it directs that the CPO's subpoena authority be exercised with the approval of the Secretary of Homeland Security (the Secretary).

The Conference substitute adopts the House language with changes, including the removal of the five year term of office and specifying that the subpoena authority be exercised through the Secretary. It also clarifies the relationship between the CPO and the Office of the Inspector General.

Section 803. Privacy and Civil Liberties Officers

Section 602 of the Senate bill establishes a network of Privacy and Civil Liberties officers in Executive Branch Agencies, in some cases strengthening the powers of existing officers. It provides that the Departments of Justice, Defense, State, Treasury, Health and Human Services, and Homeland Security, the Director of National Intelligence and the Central Intelligence Agency, and other agencies designated by the Privacy and Civil Liberties Oversight Board, are required to designate at least one senior official to

serve as an internal privacy and civil liberties officer, to function as a source of advice and oversight on privacy and civil liberties matters to the agency. Departments and agencies may designate an existing privacy or civil liberties officer for this role, and the legislation specifies that where a Department or agency has a statutory privacy or civil liberties officer, that officer shall perform the relevant functions required by this section. These officers are directed to make regular reports to their respective department or agency heads, Congress, the Privacy and Civil Liberties Oversight Board, and the public.

Section 806(b) of the House bill is a comparable provision.

The Conference substitute adopts the Senate provision.

Section 804. Federal Agency Data Mining Reporting Act of 2007

There is no comparable House provision.

Section 604 of the Senate bill requires all Federal agencies to report to Congress within 180 days and every year thereafter on data mining programs developed or used to find a pattern or anomaly indicating terrorist or other criminal activity on the part of individuals, and how these programs implicate the civil liberties and privacy of all Americans. If necessary, specific information in the various reports could be classified.

The Conference substitute adopts the Senate language.

TITLE IX—PRIVATE SECTOR PREPAREDNESS

Section 901. Private Sector Preparedness.

Section 1101 of the House bill requires the Secretary of Homeland Security (the Secretary) to establish a program to enhance private sector preparedness for acts of terrorism and other emergencies and disasters. The language also requires the Secretary to support the development and promulgation of preparedness standards, including the National Fire Protection Association 1600 Standard.

Section 803 of the Senate bill establishes a voluntary certification program to assess whether a private sector entity meets voluntary preparedness standards. In consultation with private sector organizations listed in the section, the Secretary would support the development of voluntary preparedness standards and develop guidelines for the accreditation and certification program. The accreditation and certification process would be implemented and managed by one or more qualified nongovernmental entities selected by the Secretary. Under the program, companies wishing to be certified would have their applications reviewed by third parties accredited by the entity or entities managing the program, which would determine if certification was warranted.

The Conference substitute adopts the Senate provision, as well as aspects of section 1101 of the House bill, with modifications. The Conference substitute permits the development of guidance and recommendations, and identification of best practices, to assist or foster private sector preparedness. If such guidance and recommendations are developed, the Administrator of Federal Emergency Management Agency (FEMA) and the Assistant Secretary for Infrastructure Protection will work to develop the guidance and recommendations, and the Administrator of FEMA will issue them. The Conference substitute requires the establishment of a voluntary certification program which will be developed by a designated officer within DHS, to be selected by the Secretary from among the Administrator of FEMA, the Assistant Secretary of Infrastructure Protection, and the Under Secretary for Science and Technology, in consultation with appropriate private sector parties designated in the legislation.